IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 8.2.2006

CORAM:

THE HONOURABLE MR.JUSTICE P.D.DINAKARAN
and
THE HONOURABLE MR.JUSTICE P.P.S.JANARTHANA RAJA

T.C.Nos.155 to 160 of 2001

The Commissioner of Wealth-tax,
Tamilnadu-II, Madras.
... Applicant in all the petitions

vs.

Shri R.Ramanathan Chettiar,
Chennai.
... Respondent in all the petitions

Reference at the instance of Revenue against the order of the Income-tax Appellate Tribunal dated 25.3.1987 made in WTA.Nos.188 to 191(Mad)/1986 & WTA.Nos.283 & 284(Mds)/86 for the assessment years 1975-76 to 1980-81 against the order of the Appellate Assistant Commissioner of Income Tax Madras-34 dt. 22.11.85 in ITA No.32,33,34 & 35/85-86 against the order of the 2nd Wealth Tax Officer city Circle I, Madras 34, dt. 24.6.85 in I.No.2204-R/75-76/47-000-HT-1340 and order of the Income tax Appellate Tribunal, Madras Bench B dt. 20.6.91 in R.A.627 to 632(Mds)/87 in W.T.A.Nos. 188 to 193 (Mds)/86.

For applicant : Mr.T.Narayanaswamy, Jr.SC for IT
For respondent : -----

JUDGMENT

(Delivered by P.D.DINAKARAN,J.)

At the instance of the Revenue, pursuant to the order of this Court dated 14.3.1989 in T.C.P.Nos.234 to TO 239 of 1988 under section 279 (3) of the Wealth-tax Act,1957, the Appellate Tribunal has stated a case and referred the following common question of law for our opinion:

" Whether on the facts and in the circumstances of the case and having regard to the fact that the re-opening of assessment was confirmed by the Appellate Tribunal, the Tribunal was right and had valid materials

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in holding that enhancement of value of precious stones by giving a higher estimate on the basis of sale value of some of same stones at a very huge sum at a later date, is not correct in law? "

2. The brief facts, necessary for answering the question referred to above, are as under:-

2.1. The assessee is a Hindu Undivided Family. The assessments for the assessment years 1974-76 to 1978-79 and 1980-81 were reopened under section 17(1)(a) of the Wealth Tax Act on the ground that the assessee had not fully disclosed the material particulars inasmuch as the agreement dated 14.4.1955 between the Karta of the assessee/HUF and his brothers to share the properties of Chettinad Corporation Private Limited had not been produced and the assessing officer had reasons to believe that the assets referred to in the agreement had escaped assessments.

2.2. The assessing officer, though noticed in the original assessments that the assessee possessed gold jewellery consisting of gems and precious stones which had been valued by a registered valuer in the year 1968, in the course of reassessment proceedings, enhanced the value of precious stones based upon the sale value of some of jewellery in the year 1984.

2.3. On appeal, the Commissioner of Wealth-tax (Appeals) held that the reassessments were not validly initiated and accordingly, cancelled the reassessments.

2.4. On further appeal, the Appellate Tribunal confirmed the orders of the Commissioner of Wealth-tax (Appeals) holding that the reassessments were not justified as the same were based on change of opinion, of course, following the decision of the Apex Court in Commissioner of Income-tax Vs. Simon Carves Ltd. (105 ITR 212).

2.5. Against the order of the Appellate Tribunal, the Revenue sought for a reference and accordingly, the Appellate Tribunal, on the basis of the directions of this Court, referred the above question for our opinion.

3. Heard learned counsel appearing for the Revenue. It is not in dispute that the issue raised in this reference, namely, whether it is permissible for the assessing officer to enhance the value of precious stones in reassessment proceedings by adopting the value which is different from the one adopted in the original assessment has been set at rest by the Supreme Court in Commissioner of Income-tax Vs. Simon Carves Ltd. (105 ITR 212) wherein the Apex Court held as under:-

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"Nor is it open to the Income-tax Officer ordering reassessment to substitute his own opinion regarding the method of computing the income for that of the Income-tax Officer who made the original assessment, especially when the method of computation adopted at the time of original assessment was permissible in law. The facts that the adoption of a different method of computation would have resulted in higher yield of tax would not in such a case justify the reopening of the assessment."

4. Further, it is not the case of the Revenue that the valuation adopted by the assessing officer at the time of original assessment is not permissible in law. We are therefore of the view that the Appellate Tribunal has correctly come to the conclusion that the enhancement of value of precious stones during the reassessment proceedings is not correct. Hence, the question referred to us is answered in favour of the assessee and against the Revenue. The tax cases stand dismissed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

na.

To

1. The Assistant Registrar,
   Income-tax Appellate Tribunal,
   Rajaji Bhavan, Besant Nagar, Bench B
   Chennai 600 090 (five copies with records)

2. The Secretary,
   Central Board of Direct Taxes, New Delhi (3 copies)

3. The Commissioner of Wealth-tax,
   Central-II, Madras.

4. The Commissioner of Wealth-tax (Appeals I),
   Chennai.

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5. The Wealth Tax Officer, City Circle 1(2), Madras.

Six CCs to Mr.N. Murali kumaran, Advocate, Sr. 5585, 5590

T.C.Nos.155 to 160of 2001

TEJ (CO)
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